The Kentucky Commentator

University of Kentucky College of Law

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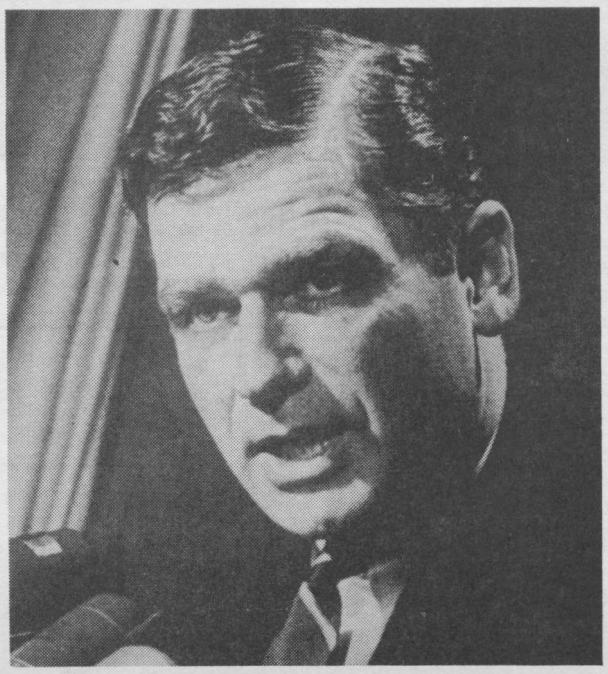
A National Presidential Primary

The air is filled with the idea of a "Direct National Presidential Primary," but many may be wondering just what such a primary entails. In 1968 and in many past years, our presidential candidates were selected by the delegates at the respective party's National Convention. It is now proposed that the official candidates of political parties for President be nominated at a primary election by direct popular vote. The voters in each State, if qualified and registered, would vote in the primary election of the party of his registered affiliation. No person would be a candidate for the presidential nomination except in the primary of the party of his registered affiliation. There will be certain directive measures which will determine whether a party can be classified as a party and signatures of a given per centum of the party's registered voters will be essential to one being placed on the ballot. Furthermore, a certain per centum of the popular vote, from an aggregate of all the states, will determine whether a person would be the party's standard-bearer. Finally, provisions would be set forth for a run-off if necessary, the qualifications of voters in the run-off, and any other procedural matters which may be necessary for an effective "National Direct Presidential Primary."

"At the end of the confusing collection of presidential primaries, now wrapped up for another four years, the prevailing and probably universal appraisal is that there must be a better way. . . . The sense of mummery becomes complete when, as now, the indication is strong that a non-belligerent will step in at the nominating convention and sweep all the marbles from those who endured the travail of the primary election route. The disappointment of the primaries is that they so often fail to do what a half century ago it was confidently expected they would do, take presidential nominations away from the backroom boys and give them to the voters. . . . Suggestions for a 'better way' are always abundant, but collide with practical obstacles and ethical objections which so far have stopped them short. . . ."

While the better way has often been suggested in the past, the mood and tune of the country seems seasonable for whatever changes are deemed necessary.



SENATOR MARK HATFIELD

This attitude is accentuated by the strife created over the Vietnam War, racial extremism, crime in our streets, rioting on the college campuses, and the unwillingness of some delegates to both conventions and the American public to accept a "take it or leave it" choice. No patriotic American is happy about our fragmented image both at home and abroad. However, in a democratic society, the concensus of the people must be channelled through our leaders. Can the attitudes of the people be truly realized when they have little or no say as to who will be nominated for the "highest office in the land?" This question is being raised not only by the elite, the affluent, the intellectual and the politician, but by the middle class and the poor, the blacks and whites, and the young and old as well. Each of these groups is a minority, nevertheless together they comprise the majority. Therefore, it is imperative that we find a better system than one which permits a few loyal delegates or a boss-ridden convention to decide, by naming its party's presidential nominee, perhaps the fate of the world.

We need to change both our nomination and election processes for choosing the President.

I have long favored the abolition of the Electoral College and the substitution therefor of a method of direct election of the President. In the 90th Congress I cosponsored a Senate Joint Resolution to amend the Constitution to provide for such direct election. I think that both this reform and the Direct National Presidential Primary are needed to assure a greater democratization of the presidential nomination and election proceedings.

Any method for nominating Presidents should "(1) aid in preserving the two-party system, (2) help secure vigorous competition between the parties, (3) maintain some degree of cohesion and agreement within the parties, (4) produce candidates who have a likelihood of winning voter support, (5) lead to the choice of good men, and (6) result in the acceptance of candidates as legitimate." Could these goals be maintained if we were to have a Direct National Presidential Primary? I think so.

The primary election has become an established institution in the United States that works well in practice, and should be extended to the most important problem of nominations, those for the presidency. Candidates would be compelled to direct their appeal to the party electorate, and not merely the party hierarchy, throughout the country. Competitive two-party politics will assure the interest on the part of the voters necessary to the success of the direct national primary.

The direct national primary would nominate better qualified candidates. The field would be open to candidates without many years of experience in party organization and party activities. The voters would have a wider choice of candidates, including men of national stature in fields of activity not directly related to politics.

The nominating process should be democratized by

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Professor Alvin Goldman

Salmon Scholarship Fund Being Raised

In the aftermath of the shock and sorrow accompanying Dorothy Salmon's death the College of Law received many inquiries from graduates and friends asking how her contributions to the school and students might be memorialized. The sentiments came from alumni spanning the full thirty-five years of her association with the College of Law. As one graduate wrote to the Dean: "You know, there are very few people you love as everyone did her."

Miss Salmon always took a special interest in the students. Professor Whiteside notes that perhaps more than anyone else at the school, she knew and appreciated the law students as individuals. Having depended on jobs and scholarship assistance to gain her own education, Miss Salmon had an especially keen appreciation of student financial problems. As a result, in her typically quiet, unassuming way, she often gave personal financial assistance to those in need. Among the letters received by Dean Matthews shortly after Miss Salmon's death were references to such generosity and humanity.

It was deemed appropriate, therefore, to honor Miss Salmon's memory with a fund designed to provide scholarships for worthy students in need of financial aid. Accordingly, Dean Matthews asked Samuel Milner '38 and Charles Landrum, Jr. '42, two graduates who had come forward to offer their assistance in honoring Miss Salmon's memory, to establish a committee for this effort. With the assistance of Professors Oberst '39, Bivin '57 and Lawson '63, they quickly enlisted an additional eighteen alumni and friends to form the Dorothy Salmon Memorial Fund Committee.

CHARLES LANDRUM

As its initial effort, the Committee enclosed a request for gifts in an Alumni Fund mailing which went to College of Law graduates at the beginning of November under the signature of Judge Pleas Jones '52, President of the Law Alumni Association. The Committee hopes to raise sufficient funds to provide a permanent scholarship memorial.

The efforts of the Salmon Memorial Fund Committee are a part of an overall effort to improve the scholarship and loan resources of the College of Law. During the present academic year the College of Law had only $1,520 to distribute in scholarship aid. These funds were awarded to eight students in stipends ranging from $85 to $280. The scholarship recipients were William C. Evans, Woodford L. Gardner, Gilbert King, Jr., Donnie R. Murray, Herbert F. Ponder, Everett T. Sanders, Zelah L. Scalf, and William E. Wobbekind.

SAMUEL MILNER

The Faculty Scholarship Committee has expressed concern that these very limited scholarship resources seriously inhibit the school's ability to maintain an optimum academic environment. It notes, for example, that too many students find it financially necessary to spend too much time at part time employment which too often does not involve educational benefits. If these students were able to spend those hours on their studies or in one of the many professional option programs at the law school, they would benefit individually and the school's academic atmosphere would be strengthened. As one faculty member puts it, "A legal education is as time consuming and challenging as a medical education, and I would not want to be treated by an M.D. who spent 15-20 hours per week at a part time job while in medical school."

While some of this financial need can and is met by loan programs, they provide only a partial answer. Professor Charles Williamson, who presents the Professional Responsibility (Ethics) Seminar, points out that an unhealthy atmosphere for ethical conduct exists if young lawyers who earn only $5,000-$10,000 per year start their careers with an indebtedness of $2,000-$5,000 on medium term interest bearing notes. Indebtedness of this type is not at all uncommon among the student body.

Further, since much of the quality of a legal education is dependent upon the presence of bright stimulating students in the classroom, the College of Law must compete with the far more generous scholarship programs at other schools to assume a quality student body. Although by all standards the academic credentials of our students continue to improve, it is no secret that each year the College of Law loses some of its most promising applicants to the lure of scholarships at other fine law schools.

Observing that everyone who has been at the law school during the past thirty-five years received the benefits of Dorothy Salmon's intellect, teaching skills, dedication, and warmth, Mr. Landrum and Mr. Milner have expressed their confidence that the law school alumni will want to contribute generously to the scholarship fund honoring her memory.

The Salmon Memorial Committee and the Law Alumni Association will soon establish machinery, organized on a graduating class basis, for personal contacts in the gift giving program. Those interested in actively participating in these efforts can contact Dean Matthews, Judge Pleas Jones, Mr. Landrum, Mr. Milner, or any member of the law school faculty.

COMMENT

TO MAKE A POINT

There will be ample space given by political scientists and historians to the presidential election of 1968. To comment upon it is to risk being dubbed as an exploiter of the obvious at the expense of imagination. Within the memorable events that transpired over this political year however, there is a subtle and underlying prophecy of a significant political trend which merits special recognition.

The political comeback of Richard Nixon and the fighting epic of Hubert Humphrey will no doubt gain top billing in the chronicles of history. But Eugene McCarthy and George Wallace have set an example that may well influence political blueprints of the future.

As the war in Vietnam became more harrassing in the latter part of last year, more and more Americans became dissatisfied with the Administration's policy in south-east Asia. Reticent by nature, McCarthy's protest to the war was barely audible at first until a large number of Americans—particularly the young—who were disenchanted with the conflict, hoisted his casual personality to a vociferous moral crusade. Only after the turbulent Democratic Convention when his primary victories were ignored, did his peace pilgrimage come to an end. Nevertheless, he had forced the Administration to take a new look at the conduct of the war and many political observers accredit him with President Johnson's decision not to run again, and even the most recent bombing halt.

George Wallace followed a similar course for a segment of American citizens irritated with the present Administration's domestic policy. His appeal—the election showed—was not as strong as anticipated, but was surprisingly dispersed throughout all social and economic levels. Alleged undue tolerance of lawlessness by the Federal Government and the disolvency of state's rights were the main vollies of Wallace's accusatory campaign. Although not as blunt perhaps as the Alabamian's acclamations, the other two candidates ultimately articulated similar views on law and order. No doubt Wallace was a cogent voice for a portion of American citizens who expouse a belief in certain values, which regardless of their rationale, deserve expression and representation just as much as those of the ghetto and Berkeley. With the candidacy of George Wallace a forceful minority was not only influential, but the pressure of middle class claustrophobia was given a healthy if losing release.

The significance of it all is that both men ran to make a point. Both men ran to banner a cause rather than to win an election. Their candidacies provided an outlet for frustrated citizens unhappy with the establishment and gave such people a chance to show this discontent within the workings of the system. For those who have insisted that social change cannot take place without blatant and violent disobedience to the laws of the land, it should be pointed out that the campaigns of 1968 graphically depict these assumptions as both dangerous and inaccurate. The public quest to "make a point" will be even more beneficial when more causes are exposed to the electorial process. For instance, even Elderidge Cleaver the black militant and comedian Dick Gregory got a piece of the political action this year in certain areas. The idea will also be more influential when the minorities are able to carry on their crusading frolics within the structure of a national primary election. Then not only will the two party system be preserved, but platform planks will be responsive to the direct voice of the people instead of Convention type arbitrariness.

Granted, the game is played to be won. This is the way of traditional American politics. This is the way of the legal adversary system. But the true score is not always tolled by numbers. Dissenting opinions often make good law. So it may be with political ventures of the future if the champion of a losing battle represents a valid cause. Actually it makes no difference whether the movements offer anything worthwhile in substance, because adversity will be aired and bad projections discarded by the wielding majority. Dissident and potentially rebellious minorities may find true representation through defeat; recognition without violence; and victory tallied not be the number of votes but by their influence.

With our national prestige declining abroad and social strife fermenting at home, this unsettling political year has done little to enhance our image as a harbinger of democracy. However, if from the bruises and lacerations of 1968 we can salvage at least an inference of stability for the future, historians may well describe it as the year that we gallantly proved to our jeering adversaries around the globe that we can make it—after all.

WHAT'S IN A SCHEDULE?

Many disgruntled law students stalked the halls with obvious contempt when the final exam schedule was posted. Some strongly opposed the scheduling of finals on consecutive days. One scholarly individual—a LJ man no doubt—participating in a square table discussion in the cybernetics lounge injected with the creative wit of an original sage that "it could be worse." One could have every exam on the same day. On the other hand, he theorized, it might be a good idea for second and third year students to have a two week reading period and then one day for exams—each course inter-related to make up one ten hour test. In fact, he went on while his startled colleagues staggered back over chairs in disbelief, it would not only give the law student a working knowledge of the whole law but would be a good warmup for the bar. The suggesting law student was immediately driven from the coffee lounge, chased down the hall and into the furnace room. Friends of the departed student can "exam" his remains by peering through the large window where he hangs in animated suspension, a constant reminder to belligerent law students that indeed, it could be worse. But then again, as King Lear pointed out in so many words while stomping through the stormy night—it could be a helluva lot better.

Shakespearean Form

Due to the shortage of facilities and the growth of the student body an undergraduate Shakespeare class is meeting in the Law Building. Naturally the arrival and departure of the co-ed segment of the class attracts varied and interesting glances.

ON THE DOCKET

New Courses Added To Bar

The Court of Appeals has added three new courses for the Kentucky Bar Examination becoming effective Jan. 1, 1970. The added courses are Federal Tax, Uniform Commercial Code, and Administrative Law and Administrative Procedure. Personal property has been dropped from the bar schedule and the subject of negotiable instruments will be incorporated into the Uniform Commercial Code addition.

Legal Aid

Sixty-four University of Kentucky law students are currently enrolled in a course entitled Legal Aid. The Legal Aid course serves a dual purpose. The faculty and students of the law school view it as a training ground and a source of valuable experience. The members of the Fayette County bar view the students who participate in legal aid as partners in a joint effort to meet the legal needs of local indigents.

The Legal Aid course was first instituted in 1965. Since then the program has been slowly expanding. Current changes include the hiring of a Legal Aid Director by the Fayette County and Lexington governments and the publication of a graphic brochure to make the service of Legal Aid made known.

Alumni Of Note

Everett Burton, graduate of the University of Kentucky, College of Law, 1951, has been elected President of the National District Attorneys Association. Mr. Burton, who now lives with his wife and two daughters in Portsmouth, Ohio, is also present Prosecuting Attorney of Scioto County, Ohio, and running unopposed for his term. He served as member of the Ohio Crime Commission and chairman of the committee on "Problems of Crime" of the Commission. Mr. Burton is a member of Richard Nixon's Advisory Council on Crime and Law Enforcement.

Faculty Returns

The College of Law would like to welcome back to the faculty the following professors who have been away from the UK College of Law for the past year on one year leave's-of-absence.

Prof. W. Garrett Flinger attended Columbia University on a Krulewich Fellowship for the purpose of satisfying residency requirements for the SJD degree. His first semester was spent in two seminars, Advanced Problems in Jurisprudence, and Problems in Legal Education. The second semester was spent in research for his thesis, "Legal Barriers to Foreign Corporate Fiduciaries: Enlightened Protectionism or Prejudiced Chauvinism?" In addition to his academic pursuits, Prof. Flickinger was appointed chairman of the CLEO Advisory Committee on Research and Evaluation, and visiting professor for the LSAT Council, in connection with which he spent three days on the campus of Tougooloo College, Jackson, Miss. Prof. Flickinger came to the University of Kentucky College of Law as a visiting associate professor in 1963, became an associate professor in 1967, and has been a full professor since May, 1967. He received his B. A. degree from Yale University, where he was Phi Beta Kappa, and his J. D. degree from the University of Michigan, where he was selected as a member of the Order of the Coif.

Prof. Alvin Goldman's year's leave began with a five week program at the Denver Institute on Application of Social Science Methodology to Legal Education and Research. From Denver, he went to Washington, D. C., where he was Professor in Residence to N. L. R. B. Member Sam Zagoria. He was the second person to ever hold this position, and was the predecessor of Prof. William Murphy of the University of Missouri Law School who was visiting professor at the UK College of Law in 1960-61. Prof. Goldman's duties while acting as a special member of Mr. Zagoria's legal staff included discussing respective Board decisions with Mr. Zagoria and other staff members; submitting proposed drafts for opinions; and, participating in case conferences on the full N. L. R. B. Board.

Prof. Goldman came to the UK College of Law from New York in 1965, where he had practiced for three years specializing for one and a half years in labor law. He received his undergraduate degree from Columbia College in 1959, and his law degree from New York University in 1962.

Prof. John Kennedy was visiting professor at the University of Illinois College of Law during the past academic year where he taught Civil Procedure I and II.

This past summer Prof. Kennedy was on active duty with the Coast Guard for reserve training at Coast Guard Captain of the Port Office, Governor's Island, New York. After completion of his duties with the Coast Guard, he taught a basic course in Civil Procedure at George Washington University Law School, Washington, D. C.

Prof. Kennedy was graduated from Notre Dame in 1956, and from Notre Dame Law School in 1959. He assumed his duties as assistant professor and the UK College of Law in 1964 after receiving his Ll.M. degree from Yale.

Student Division of Kentucky Bar Studied

This past September Mr. Charles Coy, President of the Kentucky State Bar Association, made a suggestion that the Student Bar Association of the University of Kentucky undertake a study of the feasibility of a Law Student Division of the Kentucky State Bar Association.

In response to this request, a Student Bar Association Committee under the guidance of William J. Baird III, a third year law student, has undertaken an investigation of the possibilities of such a division.

The primary purpose of such a Law Student Division is to develop a working relation between the State Bar Association and law students who will soon be members of the practicing bar. If this objective can be accomplished it may stimulate a greater interest in young lawyers for the State Bar Association and its activities.

With the aid and support of all interested members of the practicing bar this project could be very successful and a beneficial addition to the State Bar Association as well as being of service to law students.

NEXT ISSUE

Former Governor Edward T. Breathitt will discuss opportunity for lawyers in Kentucky politics.

Commentator Subscriptions

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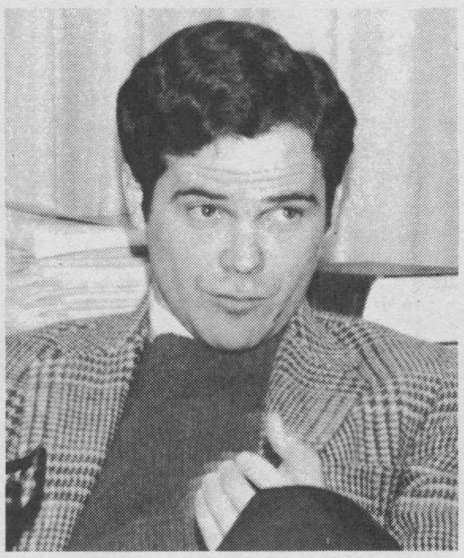
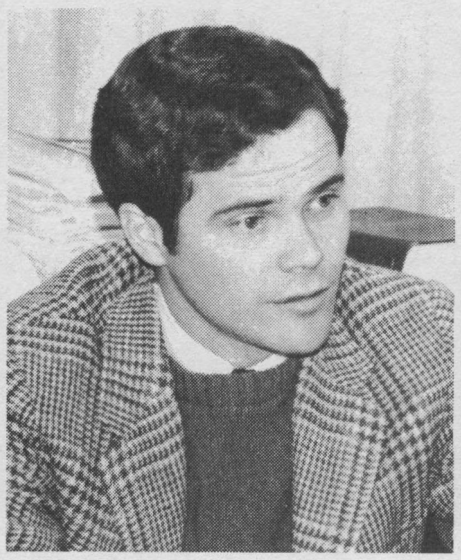
ON THE STAND . . . Professor Guido

Assistant Professor Kenneth J. Guido has been an Assistant Professor of Law at the University of Kentucky since 1967. He teaches Land Development, Land Planning and Land Finance in addition to a course in Law and Legal Institutions. He was a graduate fellow at the Yale Law School for the academic year 1966-67, and received his J.D. degree from the University of Southern California in 1966. He was graduated from California State College with a B.S. degree in 1964.



"I'm willing to discuss anything with a student so long as he is willing to explore the idea fully, but if he is unwilling to do the work or to explore the idea, I'm not going to waste my time talking with him."



"I wouldn't stay at an institution where I was told how I should teach. What is taught and how it is taught should be left to the discretion of the teacher and his students."

"One of the things I am trying to teach students is how to think. The only way a student can be taught to think is to let him think."

Commentator: Why did you go to law school?

Mr. Guido: I wanted to teach and felt that law was the only area in which significant corrections in education were being made. Experimentation was just beginning at the University of Southern California and I wanted to participate in the reformulation.

Commentator: Did you ever think about practicing?

Mr. Guido: I thought about practicing and even interviewed a number of firms. The only firms I would join are the very major law firms which I found subject young associates to many years of apprenticeship before giving them any responsibility. I decided against practice because I would have been unhappy with that sort of arrangement.

Commentator: What bars have you taken?

Mr. Guido: I am a member of the California Bar.

Commentator: What made you decide to come to UK?

Mr. Guido: I interviewed a number of law schools around the country and my impression was that most law professors are not interested in teaching, and fail to adequately prepare students for practice, much less prepare them to think about the function of law.

At the University of Kentucky I found something different. Here professors have a great deal more freedom and are not uninterested in reform. The freedom to teach law as I think it should be taught was what most attracted me I guess. Also I knew that I could teach the subject in which I was most interested—Land Utilization.

Commentator: You did attend Yale also, did you not?

Mr. Guido: Yes.

Commentator: How would you compare the quality of the Yale law school, including the instruction, with that of UK?

Mr. Guido: Equally uneven. There is unevenness at Yale and there is unevenness at the University of Kentucky. There were people I admired at Yale and there are people that I admire here.

Commentator: How do you compare the students here at UK with students at Yale?

Mr. Guido: Well, the students at Yale on a whole are superior students. They come from the major educational institutions in the country and have had a very rigorous education. There are almost as many students able to master concepts and ideas here as there were at Yale. We usually have a number of outstanding students able to completely explore an idea whom I would recommend to anyone in the country for any position, but at Yale more students fall within this category.

A sizeable student attitude that work would be avoided prevails at UK, but it is becoming increasingly a minority position. In my two years on this faculty I have seen a significant change in student attitude, and I think that over the next few years we will see an even greater change. Some very good people with a great deal to offer are on this faculty. As students recognize what there is to be learned, their interest in learning will increase.

Commentator: Last year Mr. Guido, I think it was last fall, Mr. Tarlock wrote an article in the Kentucky Commentator entitled "What We Have Here is A Failure to Communicate." Do you recall the article?

Mr. Guido: I recall some of that article.

Commentator: How do you feel about it? Do you think that you have difficulty communicating with the students here as Mr. Tarlock did?

Mr. Guido: No. The students understand me as well as I understand them. There is no failure to communicate, although we may not agree all the time. For example, I disagree with many students' concept of honesty and what constitutes plagarism. Their standards are too low in my opinion. But each of us understands what the other is saying. If what you mean by a difficulty in communicating, however, is that students are either unwilling to or incapable of understanding and reasoning with difficult concepts, I agree in part with Mr. Tarlock. But as I said earlier, this is changing rapidly and is not a uniform or even a majority phenomenon. Most students even if they're not willing to work can be prodded to understand most concepts.

Commentator: Many students feel that you are egotistical and aloof. Do you think this a an accurate discription of your personality?

Mr. Guido: Very funny—I have been discussing with some of my colleagues the concept of the law teacher. My position is that a teacher should not be authoritarian, and if that is what you mean I would have to say no. I do not think of myself as an authoritarian individual. You must mean my unwillingness to engage in idle conversation with students. I guess to that extent I'm aloof. I'm willing to discuss anything with a student so long as he is willing to explore the idea fully, but if he is unwilling to do the work or to explore the idea, I'm not going to waste my time talking with him.

Commentator: I spoke to you a whole semester in the hall before you ever spoke to me for the first time.

Mr. Guido: One of the things you have to understand is that there are 450 students and only 20 faculty members at this school. I cannot recall all names and recall past conversations with students. It's very difficult to walk down the hall and have a hundred students say "hello" to you and be able to respond other than with a nod. I try to keep myself very busy, which makes it even more difficult. When I'm going through the hall, and maybe thinking about four or five different things and trying to allocate my time, I may not notice people.

Commentator: If one student was describing you to another, what would you hope that he would say?

Mr. Guido: Well, I hope that he would say that he found my courses and talking to me excruciatingly difficult, but yet when he was finished he found that he had acquired some new information or a new insight which he had never had before.

Commentator: Your philosophy in teaching law is to create a certain amount of curiosity on the part of students?

Mr. Guido: Not curiosity, but a way to look at things. I don't know whether curiosity can be created in another. I personally believe that law itself can be very interesting and my function is to provide students with new perspectives. So long as they are curious people, they'll find these new perspectives interesting. To the extent to which providing new perspectives alleviates student boredom, I guess I'm creating curiosity.

Commentator: You didn't attend the Libel Show this year. Why not?

Mr. Guido: I found while a student that libel shows are rather boring and overly long. Some skits are usually interesting, but in all they are a waste of time.

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AMICUS CURIAE . . . Friends Of The Court

THOSE THAT CAN DO— THOSE THAT CAN'T TEACH

The future legal profession is dying in its incubator from lack of adequate care. Some individuals who aren't members of the profession or lack the ability to practice, under the alias of teacher, engage in class room games and pseudo-intellectual discussions of the potty. Under the heading of research they turn out quantity rather than quality in Law Journal articles. Flying the flag of academic freedom, they do as they damn well please and it doesn't please them to be properly prepared for class or for that matter even to know just what the hell it is they're suppose to be teaching.

Talk to some of these individuals, at least those who don't consider it beneath a "teacher" to talk to a student or those who are intelligible and they tell you that the present attitude or goal is to achieve national recognition and academic excellence. I submit to you that academic excellence and national recognition does not come from hiring untried, inadequate non-members of the profession, but rather from hiring members of the profession who have practiced.

I'm reminded of an old saying "those who can—do, those who can't—teach." Observing some of our faculty members in action leads me to believe that they are prima facie evidence of this saying.

Vic Fox

THE HYPOCRICY OF THE NEW LEFT OR WHO DO THEY THINK THEY'RE KIDDING

After even casual observation, it is not difficult to know that there are worlds of differences between what the New Left says and what the New Left does.

All of us know that these people are the champions of free speech and that they hollow "foul" whenever someone takes exception to their traitorous statements but interview those persons who heckle and shout down political candidates and/or government officials. You will find that they are none other than the champions of free speech-members of the New Left.

Can one then infer that the New Left is only for free speech for those who bleat their warped dogma?

The idea of a police state supposedly sickens members of the New Left yet they call continually for a revolutionary change in our method of government and on international questions involving the United States versus communist police-state countries, they are more often than not aligned with the police-state countries. This, then is another instance of the New Left cackling one thing and doing another.

You will recall further that these flower children abhor violence and continually call for police disarmament. But it was not flowers that they threw at the police in Chicago. It was rocks and bricks and urine and boards with nails in them and potatoes with razor blades in them and bottles and broken window glass. These disciples of non-violence seriously injured and hospitalized 200 Chicago policemen during the Democratic Convention—another inconsistency.

The idea of world disarmament with an end to wars forever is a beautiful theory which every rational person would like to see realized. The New Left says that it is totally committed to this theory. This is fine. But, they insist that the United States establish precedent by disarming unilaterally and point their finger at our government officials and shout "imperialist warmonger" because the United States will not disarm. One cannot believe that the New Left is so stupid as to not know the result of our solitary disarmament. Should one then infer that they are only for U.S. disarmament?

One of the first requirements of a police state is to disarm the populace and one would expect these defenders of freedom to be totally opposed to gun registration and confiscation, but the opposite is true as they are continually bleating for gun control that would virtually disarm all of us who do obey laws.

Essentially then, the New Left wants our citizens, our police, and our military disarmed.

After considering these and other facts about the New Left one can only conclude that the members are either 1) idiots and therefore do not know what they are doing; 2) part of an international effort to destroy the government of the U.S.; or 3) some members belong in category (1) and some in (2), i.e. some New Left members are led like sheep by shepherds who want an alien government established in the United States. I believe the latter to be the most likely.

They are not kidding me.

John Kirk

REGARDING THE "REBELLION"

Mr. Viles commentary on law student revolution by apathy in the October **Commentator** is noteworthy mainly for its articulation of what everyone—professors, students, recent and not so recent graduates—already know. Although Mr. Viles "tells it like it is," (and I agree with him that the system is in dire need of reform) I'm not sure some sort of glori-

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A Presidential Primary — Hatfield

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letting the people participate directly in the choice of nominees. As an informal procedure, the convention looks to certain areas and/or states of the country for its ideal nominee, to the exclusion of other areas. This is certainly an unfair approach. The characteristic of the national primary would be to give every state and its citizens an effective chance for the nomination by either party.

Though pre-nominating campaigns might be exhausting for the candidates and expensive for their backers, I think that ways and means can be found to at least prevent these problems from exceeding their present scope. Most nominees of the convention system have had, in recent years, to begin working almost four years in advance of the convention by which they were nominated, which required great durability and expenditures.

Some government subsidy of candidates may be possible to alleviate the burden of the candidates. The elimination of present nominating procedures and of the Electoral College System will effect some savings which would offset any such subsidy. In the long run, I believe the elimination of the Electoral College and the adoption of the direct national primary will be more economical than our present systems of nomination and election of the president.

Probably the most repeated argument against the present nomination system is that the political convention is inevitably a boss-ridden travesty on popular institutions, intolerable and incurable. There is no question that the conventions are often intolerable, though I will not go to the extent of saying they are incurable. Realistically speaking, we may very well have to work within the convention system for years to come, until the proposal for a national primary is able to muster enough support for a constitutional amendment.

One argument against the national primary is that it would weaken the forces of cohesion that make a political party capable of assuming the responsibility for the conduct of the government. This, too, is a debatable contention since there are a number of other underlying factors essential to the making of responsible government.

Enough has been established to make it apparent that no simple prediction is possible as to how a national primary would affect the political parties and their necessary functions. Perhaps we may tentatively conclude that the primary would result in a power shift from the official party hierarchy to the party rank-and-file and interest groups. It has been presumed that this power shift would weaken the national party organization. However, proper and well planned countervailing measures may off-set such a weakening effect. For instance, national conventions may be left with important party functions such as the drafting of a national party platform.

Our present methods of nominating and electing the President are obsolete. By adopting the Direct National Presidential Primary and by substituting the direct election of the President for the Electoral College System I believe that we will bring more democracy to the American people—black and white, rich and poor, and young and old alike.

Professor Guido . . . ON THE STAND

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Besides I've heard some very negative things about the libel show here. I'm not interested in seeing people perform vulgarities and lose control of themselves.

Commentator: How about your future, do you intend to teach for the rest of your life or do you intend to practice someday?

Mr. Guido: That is a very difficult question to answer. I cannot predict what I will want to do twenty or twenty-five years from now. I'll probably always want to stay in teaching or be very close to teaching, however. I enjoy working with students and enjoy teaching. If I did anything else, it would be just on a leave of absence. I would never permanently leave the school at which I was teaching to practice law.

Commentator: There is an adage that A students make professors, B students make judges, and C students make lawyers. The implication is that people of higher intelligence have trouble communicating with the common person and the common person is the one the practicing lawyer has to communicate with most often.

Mr. Guido: Well, I guess then I don't count as the A student. I don't sense any trouble communicating with the layman, the non-lawyer. Or maybe I should practice, if you take that as the test. Seriously, I guess I disagree with the implication. All those who start law school are non-lawyers, and the law professor must communicate very difficult concepts to them. The fact that A students make law professors may have more to do with the criteria for law professors than with the criteria for practioners. Students with C averages are usually not offered as many teaching positions as those with higher averages. They may be as competent. But I presume that grades are some indication of how enthusiastic one is about law. The implication of the adage may be that enthusiasm is a very important attribute for a law teacher to have, not that law professors have trouble communicating.

Commentator: How about your writing?

Mr. Guido: I am writing an article on weather modification, explaining the federal role and what I consider to be an appropriate concept of liability. I'm also working on an article on our national nominating conventions. I became very interested in political questions—how men organize societal actions and what is an appropriate basis for selecting leaders—when teaching constitutional law. I'm also preparing an article on the role of the Supreme Court, examining how each of the various views on this question is reflected in actual decisions.

Commentator: I take it from these statements that your favorite field then would be constitutional law?

Mr. Guido: No, that is incorrect. It is how we make decisions and how we select our decision-makers. I am working on an article in which I compare planning to zoning and advocate a restructuring of planning commissions so that they plan our urban environment instead of districting it as is done in present zoning practice.

Commentator: What is your opinion of the Supreme Court?

Mr. Guido: I guess your question is what do I think of the criticism that has been made of the Supreme Court. Let me first state what I believe the criticism to be. Those who criticise the Court contend that it should strictly construe the Constitution and not take liberty when interpreting its provisions. They believe that the Justices should square their decisions with the document, the Constitution, and not interpret or reinterpret it. I feel that the critics have been unresponsive by failing to recognize how decisions are made. It is physically impossible to set a set of facts against a document and have a decision emerge. Furthermore, not only have they failed to properly characterize the Court's decision-making function, but they have misinterpreted what it has said. In most cases, the Justices agree about the values that should be applied, extracting them from the Constitution, but the critics insist upon viewing each decision as either an acceptance or rejection of a given value. Their error in reasoning, sometimes called the yes-no option, can be demonstrated by showing the difference between Justices Black's and Douglas's decisions in the speech cases. Both accept the value that speech is absolute, but in some recent sit-in cases Black has voted with the more conservative members of the Court. If we viewed the value singularly we would conclude that Black no longer believes that speech is absolute. But if we examine their concepts of speech we see that the reason for their apparent disagreement is that Black doesn't believe that action is speech. He believes that verbal facilities are adequate to communicate any idea, whereas Douglas believes that speech includes non-verbal communication.

Commentator: Going back now to teaching, Mr. Guido, does it make any difference to you what the students think about you individually? In other words would you rather be respected as a person or respected as an instructor?

Mr. Guido: If they are mutually exclusive categories, which I don't think they are since one is judged in part as a person by what he is vocationally, I'd rather be respected as a teacher.

Commentator: Some students who have taken your classes complain that when you are asked a question your response is evasive, or that you will yield the question to somebody else, or you will respond with a question. Why do you do that?

Mr. Guido: I think that it serves a very good function. One of the things I am trying to teach students is how to think. I am not going to be with my students when they have a problem five years from now and I cannot predict every problem that they may encounter. The only way a student can be taught to think is to let him think.

Commentator: Do you have any desires for a change in the curriculum at the University of Kentucky Law School?

Mr. Guido: Yes. We have come a long way, but we still have a great deal of room for improvement. There are still courses that need to be added, but I don't believe that curriculum reform is the entire answer. A few law schools have begun to teach social science methodology and as a consequence have ignored their stated objective which was to encourage students to recognize the social importance of legal doctrines. You, as a student, must recognize that a course can be labeled anything but what is taught depends upon who is teaching. Very much like a judge when he goes on the bench, or a lawyer when he goes into practice, a teacher's knowledge and background affects his ability to explore and teach the various aspects of law. The most significant question is not how the curriculum is structured or whether such and such a course is taught in the first or second year, but who teaches what course. A school as advanced as ours need not concern itself with course reform. Instead faculty recruitment should be emphasized.

Commentator: What about academic freedom? What would you do if you were not allowed to teach like you want to?

Mr. Guido: Well, if that occurred here—which I must say I doubt—I definitely would leave. I wouldn't stay at an institution where I was told how I should teach. What is taught and how it is taught should be left to the discretion of the teacher and his students.

AMICUS CURIAE

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fied internship along with trying to do what you'll be doing when you're doing the real thing will be much better.

The one thing any system needs, however, is good instructors. This might also serve to explain a great part of law student apathy. From my own observation and comments of fellow students it is obvious that good instruction (with some noteworthy exceptions) is lacking in this and most (all?) other law schools.

I know most instructors realize that teaching is an art they have to learn, but few of them made any effort ot master it. Year after year they use the same unenthusiastic, boring and/or unintelligible method. Granted that the physical set-up and the teaching aids available are completely inadequate, it would seem some effort would be made by the faculty to improve instructional technique. Having to present some of the driest material outside of the armed forces, law teachers should have some idea of how to go about the task of motivating and instructing students.

Their academic freedom would probably somehow be impinged if some sort of workshop was required—perhaps every semester during the students' reading period—where the teachers could get together, give a couple of model classes of whatever they would be teaching the next semester and be critiqued by their fellow professors. Some of the better people in the Education Department of the University who specialize in instructional technique could in all probability also be utilized to tell and show how it could best be done.

No miracle would be expected from such a program, but hopefully some positive results would soon become evident.

Les Renkey

A NEED FOR CHURCH REFORM

Since the conception of our nation, puritanical precepts have dictated many state laws aimed at morality. Very recently, however, there has been a libertarian movement of sufficient force to cause widespread desire for change. Many persons feel that laws governing obscenity, for example, invade the First Amendment's freedom of expression; others feel that laws governing birth control are an invasion of the inherent right of privacy.

Legislative and judicial debate have caused at least a modicum of reform. Society will thus become increasingly frustrated by having to choose from standards of behavior (or lack of them) set by two major forces—the Church, and the Law.

It is inevitable that the Church must meet these changes with reform of its own. It is no secret that an increased educational level will tend to increase an individual's capacity for rational behavior based on logic rather than controlled behavior based on fear producing stimuli. Accepting the fact that the national level of education will continue to increase, there is reason to believe that some mystical behavior standards of the Church, whose unquestioning acceptance is prerequisite to good standing, will degenerate.

If the Church is to maintain the premise that "spiritual guidance" is necessary for a complete life, its role must change whereby it consciously assumes a pragmatic understanding of human motivational forces.

E. Robert Goebel

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